



**QUALCOMM Incorporated**

2001 Pennsylvania Ave., NW ■ Suite 650 ■ Washington, DC 20006 ■ Tel: 202.263.0020

[www.qualcomm.com](http://www.qualcomm.com)

September 26, 2005

**Via ECFS**

Ms. Marlene Dortch  
Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, S.W.  
Washington, DC 20554

**Re: Oral Ex Parte Presentation in WT Docket No. 05-7**

Dear Ms. Dortch:

On behalf of QUALCOMM Incorporated ("QUALCOMM"), this is to report that on September 23, 2005, Larry Hartigan, Jennifer McCarthy, and I, along with Bob du Treil, Jr. of PCCI and Veronica Ahern of Nixon Peabody LLP met with Donna Gregg, Chief of the Media Bureau, and Thomas Horan, Senior Legal Advisor in the Media Bureau, to discuss QUALCOMM's Petition for Declaratory Ruling in the above-referenced proceeding.

During the discussion, we provided background information on the MediaFLO service that QUALCOMM, through its MediaFLO USA subsidiary, is launching on its Channel 55 spectrum, and we explained the vague aspects of Section 27.60 (b) (iii) of the Commission's rules for which QUALCOMM needs clarification in order to launch MediaFLO in certain important markets. We explained that while the rule allows QUALCOMM to submit an engineering study to justify the proposed separations, the rule does not specify the methodology to calculate interference to affected adjacent channel or co-channel TV/DTV stations; does not establish a level of *de minimis* interference, and does not explain how the Commission would process these engineering studies. To fill in these gaps in the rule, we asked for the clarification requested in QUALCOMM's Petition, namely that: (i) QUALCOMM be permitted to use the OET 69 methodology, which is well known to the Commission and the TV industry, to calculate interference; (ii) interference of 2% or less from QUALCOMM's MediaFLO service to adjacent channel or co-channel TV/DTV stations be deemed *de minimis*, the same provision that governs interference from one DTV station to another on the same Channel 55 spectrum; and (iii) the Commission adopt streamlined processing of the engineering studies.

In the course of this discussion, we stressed that Section 27.60 does not impose any "no interference" requirement on 700 MHz licensees such as QUALCOMM. Instead, the full protection afforded to TV and DTV stations under the rule is, as the rule states, that 700 MHz licensees such as QUALCOMM must "reduce the potential for interference" to TV and DTV stations by operating in accordance with the terms of the rule. We stated that the rule simply does not say that all interference must be eliminated. We noted that the Section 27.60 (b) (iii) provides that a 700 MHz licensee such as QUALCOMM may submit an engineering study "justifying the proposed separations" between the facilities of the 700 MHz licensee and that of

a TV or DTV station, a provision which can only be read to mean that there is some level of interference resulting from such separations that the Commission would find to be justified. During this discussion, we provided Ms. Gregg and Mr. Horan with the attached copy of Section 27.60.

Finally, we explained that while QUALCOMM has proposed that it be allowed to cause up to 2% interference to the over-the-air reception of TV and DTV stations, the same level of interference that a DTV station is permitted to cause to DTV or TV stations on the very same spectrum as QUALCOMM will be operating on, since the overwhelming majority of people watch TV via cable or satellite, in fact, the actual number of people who would experience interference in these markets will be a fraction of that 2%. In addition, we pointed out that QUALCOMM will be providing the TV and DTV stations with much greater protection than they would receive under the Part 73 rules because the Part 27 d/u ratios, which apply to the MediaFLO service, provide substantially more protection for the TV and DTV stations than the Part 73 d/u ratios provide.

In sum, we emphasized that QUALCOMM has been quite conservative in our proposal to ensure that over-the-air viewers of adjacent channel and co-channel TV and DTV stations do not suffer excessive interference. As a result, the very substantial benefits to the public interest that will flow from the innovative MediaFLO service will more than outweigh the *de minimis* interference—interference that only a very small percentage of over-the-air viewers of TV and DTV stations on Channels 54, 55, or 56 in a limited number of markets will experience for a limited period of time (until the end of the DTV transition).

Prior to the meeting, I had a telephone conversation with Mr. Horan. In that conversation, I provided a brief overview of the MediaFLO service and a short description of QUALCOMM's Petition for Declaratory Ruling.

Respectfully submitted,

/s/ Dean R. Brenner

Dean R. Brenner  
Senior Director, Government Affairs  
QUALCOMM Incorporated

Cc: Donna Gregg  
Thomas Horan